IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION NO. 2492 OF 2006

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri R.K. Tiwari, Advocate for the applicant.
Shri Y.B. Mandpe, APP for the respondent.

CORAM : B.R. GAVAI, J.
10TH AUGUST, 2006

This is an application for grant of bail. The applicant has been arrested in connection with the Crime No. 263/2004 for the offence punishable under Section 399 of the Indian Penal Code read with Section 4/25 of the Arms Act on 12th August, 2004. Subsequently, for the same crime, the provisions of MCOC Act came to be added and the applicant came to be arrested.

Heard the learned Counsel for the parties.

Initially vide order dated 17th January, 2005, the competent authority refused to grant its sanction for invoking the provisions of MCOC Act. Accordingly, a report for discharge of the applicant/accused from the provisions of MCOC Act came to be filed. However, the learned Special Court refused to accept the said report and directed further investigation. Subsequently, the competent authority, vide order dated 2nd February, 2005 granted permission to make the provisions under MCOC

Act applicable.

Shri R.K. Tiwari, the learned Counsel for the applicant submits that there is no offence against the present applicant which can be said to have been committed in order to get pecuniary advantage by the applicant. He further submits that the competent authority having refused to grant its sanction could not have by subsequent order granted sanction on the basis of the same material.

Shri Y.B. Mandpe, the learned APP vehemently opposes the application. He submits that prior to the present offence, the applicant is involved in three offences. He submits that Crime No. 263/2004 for the offence punishable under Section 399 of the Indian Penal Code committed by the applicant is for the purpose of pecuniary gain. He, therefore, submits that as per Section 21(4) of the Maharashtra Control of Organised Crime Act, 1999, the applicant is not entitled to be released on bail.

In so far as the Crime No. 407/1998 is concerned, it was for the offence punishable under Section 326. In so far as Crime No. 477/1999 is concerned, it was for the offence punishable under Section 302 in which the applicant is already acquitted. In so far as Crime No. 328/2003 is concerned, it was for the offence punishable under Section 302. It can thus be seen that none of these

offences can be said to have committed for pecuniary advantage. In so far as Crime No. 263/2004 is concerned, the present applicant was initially released on bail.

In that view of the matter, I find that the provisions of Section 21(4) of the said Act will not come in the way of the applicant to be released on bail. The application is, therefore allowed.

(1) The applicant is directed to be released on bail in connection with Crime No. 263 of 2004 registered by the Police Station, Panchpaoli, Nagpur on furnishing his bail bond of Rs.25,000/- (rupees twenty-five thousand only) with one or more sureties in the like amount.

(2) The applicant shall report to the Police Station, Panchpaoli, Nagpur on 1st Sunday of every month at 11:00 a.m.

(3) The applicant shall cooperate with the investigation. The applicant shall not in any way make an attempt to influence the witness or tamper with the evidence. If the applicant indulges in any of the activities for which the provisions of the said Act can be made applicable, the State would be at liberty to apply for cancellation of bail.

JUDGE